

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:21-CV-00139-BO

BERNARD GEE,
Plaintiff,

KILOLO KIJAKAZI,
Commissioner of Social Security,
Defendant.

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) ORDER APPROVING ATTORNEY
) FEES PURSUANT TO 42 U.S.C. § 406(b)
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Plaintiff's counsel filed a motion for approval of attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of ~~\$12,665.75~~ ^{12,000.00 TWA}. Attorney's fees under section 206(b) are paid from past-due benefits awarded to a successful claimant. 42 U.S.C. § 406(b). Plaintiff has previously been awarded attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$2,362.25 after Treasury Offset.

Defendant filed a response, stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of ~~\$12,665.75~~ ^{12,000. TWA} (or 25% of past-due benefits due to Plaintiff by reason of this Court's judgment, whichever is less), and refund to Plaintiff the smaller award (\$2,362.25) between this amount and the EAJA award.

This 15 day of May, 2023.


TERRENCE W. BOYLE
UNITED STATES DISTRICT COURT JUDGE